

20 December 1976

STAT TO : Mr. [] Chief, ISAS

STAT FROM : [] Chief, RAB

SUBJECT: Comments on OGC's reaction to []

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STAT [] In going over the difficulties and suggestions concerning [] as presented by [] OGC, the following comments are offered referencing each item in his memo:

1a. This is a true assumption, for all practical purposes the moratorium is still in effect since we cannot destroy any records until they are approved by OGC even though we may have the approval of the Archivist and the Congressional Committees.

1b. The mention of criminal sanctions provide incentive for taking the policy seriously. Perhaps the "tone" suffers, but shouldn't all employees be made aware of the consequences of disregarding the policy? We of course do not presume that Agency employees will engage in the unauthorized destruction of records.

1c. Pursuant to 44 USC 3314, records of the US Government may not be alienated or destroyed except under Title 44 USC 33. Title 44 USC 3302 requires that the Administrator of General Services shall promulgate regulations establishing procedures for the compiling and submitting to him of lists and schedules of records proposed for disposal. Title 44 USC 3303 requires that under these regulations the head of each agency shall submit the lists and schedules to the Administrator. The regulations promulgated pursuant to 44 USC 33 include FPMR 101-11.4 (41 CFR 101-11.4). FPMR 101-11.406 establishes the procedures for submitting lists and schedules of records proposed for disposal. The procedure require submission of SF 115 to NARS for approval by the Archivist of the United States.

Incidentally, the General Records Schedules of FPMR 101-11.404 are also approved by the Archivist of the United States on SF 115. The only material not covered by NARS General Records Schedules or Agency schedules or lists are "non-records" per 44 USC 3301. Perhaps OGC can clarify if the foregoing is "by law" or "by regulation".

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